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Sent: Thursday, June 16, 2005 5:32 PM
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Cc: Roderick G. Dorman
Subject: 05-CV-01114 JW (HRL) -- In re Acacia -- Draft Stipulation

Dear Counsel --

Attached is a draft of a stipulation regarding the briefing and deposition schedule for the Motion for Reconsideration of the July 12, 2004 Claim Construction Order. It incorporates the terms we discussed yesterday, however, I understand that defendants may still have some proposed changes for our consideration. Please provide us with your comments, or, if you approve of the stipulation, please provide a responsive e-mail providing me with authorization to sign on your behalf. Also, please confirm that our information for each counsel in the signature blocks is correct, or, if not, please provide us with the corrections.

Thank you for your assistance and cooperation. I look forward to hearing from you.

Regards,
Alan Block

<<HBDDOCS-#488903-v1-Stipulation_re_Briefing_Schedule_for_Motion_for_Markman_Reconsideration.DOC>>

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This e-mail was sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.
Thank you.

7/12/2005

1 COUNSEL LISTED ON SIGNATURE PAGES

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 In re

13 ACACIA MEDIA TECHNOLOGIES
14 CORPORATION

Case No. 05 CV 01114 JW (HRL)
MDL No. 1665

15 STIPULATION AND [PROPOSED]
16 ORDER SETTING FORTH BRIEFING
17 AND DEPOSITION SCHEDULE FOR
18 MOTION FOR RECONSIDERATION OF
19 THE JULY 12, 2004 CLAIM
20 CONSTRUCTION ORDER
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1 WHEREAS, on June 14, 2005, counsel for the parties to these actions appeared before the
2 Court;

3 WHEREAS, at the June 14, 2005 conference, the Court scheduled an evidentiary hearing
4 regarding a Motion for Reconsideration of the July 12, 2004 Claim Construction Order to occur
5 on September 8 and 9, 2005;

6 WHEREAS the Court ordered counsel for the parties to meet and confer to agree upon a
7 schedule for the briefing and expert depositions relating to the Motion for Reconsideration;

8 NOW, therefore, it is hereby stipulated by and between the parties hereto, through their
9 respective counsel of record, as follows:

10 1. By June 21, 2005, Acacia shall serve on all parties and the Court its statement of
11 issues to be reconsidered. The statement shall: (1) identify each issue (claim term construction,
12 evidentiary issue, etc.); (2) state the proposed construction or modification to the Order to be
13 adopted; and (3) state the reason why reconsideration is required. (This document shall not be the
14 legal briefing of the issues.)

15 2. By June 29, 2005: Acacia shall serve all defendants with infringement contention
16 information required by N.D. Cal. Patent Local Rule 3-1 for the '992 and '702 patents.

17 3. By July 6, 2005: Each defendant shall serve on all parties and the Court its
18 statement of issues to be reconsidered. The statement shall: (1) identify each issue (claim term
19 construction, evidentiary issue, etc.); (2) state proposed construction or modification to the Order
20 to be adopted; and (3) state the reason why reconsideration is required. (This document shall not
21 be the legal briefing of the issues.)

22 4. By July 11, 2005: Acacia shall file and serve its opening brief supporting
23 application of reconsideration of its listed issues to be reconsidered. With this brief, Acacia shall
24 file expert declarations setting forth the nature and scope of the expert testimony to be presented
25 at the hearing on September 8 and 9.

26 5. By July 11, 2005: Defendants shall file and serve their opening brief supporting
27 application for reconsideration of their listed issues to be reconsidered. With this brief,
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1 defendants shall file expert declarations setting forth the nature and scope of the expert testimony
2 to be presented at the hearing on September 8 and 9.

3 6. By August 15, 2005: Acacia and the defendants shall file and serve their
4 opposition brief(s) to the adverse party's opening brief(s). To the extent expert testimony will be
5 used to rebut the testimony of any expert declaration provided with an opening brief by an
6 adverse party, expert declarations shall set forth the nature and scope of the intended rebuttal
7 testimony to be presented at the hearing on September 8 and 9.

8 7. By August 31, 2005: Parties may depose any expert designated by any party on or
9 before August 31, 2005 with the dates, times, and places for the depositions to be mutually-
10 agreed upon by the parties. No deposition shall exceed seven (7) hours without leave of Court.

11 8. By September 23, 2005: Acacia and the defendants shall file and serve post-
12 hearing reply briefs, which may address arguments and evidence presented in the adverse parties'
13 opposition brief and/or and additional argument or evidence presented at the evidentiary hearing
14 on September 8 and 9. No additional expert testimony that was not already presented in any of
15 the briefing or at the hearing shall be permitted with the post-hearing brief.

16 9. Defendants agree, to the extent practical and reasonable, to file joint briefs and to
17 use shared experts.

18 IT IS SO STIPULATED.

19 Dated: June , 2005

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

By: _____

JAMES WARE
UNITED STATES DISTRICT JUDGE